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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**DARCIE BLITHE PENDERGRAFT
a.k.a. DARCIE MCCRACKEN
2348 Willona Park
Eugene, OR 97408**

Registered Nurse License No. 628104

RESPONDENT

Case No. 2012-470

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about February 22, 2012, Complainant Louise R. Bailey, M.Ed.,RN, in her official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of Consumer Affairs, filed Accusation No. 2012-470 against Darcie Blithe Pendergraft, aka Darcie McCracken (Respondent) before the Board of Registered Nursing. (Accusation attached as Exhibit A.)

2. On or about October 17, 2003, the Board of Registered Nursing (Board) issued Registered Nurse License No. 628104 to Respondent. The Registered Nurse License was in full force and effect at all times relevant to the charges brought herein and expired on November 30, 2007 and has not been renewed.

3. On or about February 22, 2012, Respondent was served by Certified and First Class Mail copies of the Accusation No. 2012-470, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record which, pursuant to Business and Professions Code section 136 and Title 16, California Code of Regulation, section 1409.1, is required to be reported and maintained with the Board, which was and is:

2348 Willona Park
Eugene, OR 97408.

1 4. Service of the Accusation was effective as a matter of law under the provisions of
2 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
3 124.

4 5. On or about March 5, 2012 and March 7, 2012, the Certified Mail documents and the
5 First Class Mail documents were returned, both marked by the U.S. Postal Service, "Attempted
6 Not Known." The address on the documents was the same as the address on file with the Board.
7 Respondent failed to maintain an updated address with the Board and the Board has made
8 attempts to serve the Respondent at the address on file. Respondent has not made herself
9 available for service and therefore, has not availed herself of her right to file a notice of defense
10 and appear at hearing.

11 6. Business and Professions Code section 2764 states:

12 The lapsing or suspension of a license by operation of law or by order or decision of
13 the board or a court of law, or the voluntary surrender of a license by a licentiate shall not deprive
14 the board of jurisdiction to proceed with an investigation of or action or disciplinary proceeding
15 against such license, or to render a decision suspending or revoking such license.

16 7. Government Code section 11506 states, in pertinent part:

17 (c) The respondent shall be entitled to a hearing on the merits if the respondent files a
18 notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation
19 not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's
20 right to a hearing, but the agency in its discretion may nevertheless grant a hearing.

21 8. Respondent failed to file a Notice of Defense within 15 days after service of
22 the Accusation upon her, and therefore waived her right to a hearing on the merits of Accusation
23 No. 2012-470.

24 9. California Government Code section 11520 states, in pertinent part:

25 (a) If the respondent either fails to file a notice of defense or to appear at the hearing, the
26 agency may take action based upon the respondent's express admissions or upon other evidence
27 and affidavits may be used as evidence without any notice to respondent.
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1 10. Pursuant to its authority under Government Code section 11520, the Board after
2 having reviewed the proof of service dated February 22, 2012, signed by Aaron Hanson, and the
3 returned envelopes finds Respondent is in default. The Board will take action without further
4 hearing and, based on Accusation No. 2012-470 and the documents contained in Default Decision
5 Investigatory Evidence Packet in this matter which includes:

6 Exhibit 1: Pleadings offered for jurisdictional purposes; Accusation No. 2012-470,
7 Statement to Respondent, Notice of Defense (two blank copies), Request
8 for Discovery and Discovery Statutes (Government Code sections
9 11507.5, 11507.6 and 11507.7), proof of service; and if applicable, mail
10 receipt or copy of returned mail envelopes;

11 Exhibit 2: License History Certification for Darcie Blithe Pendergraft, aka Darcie
12 McCracken, Registered Nurse License No. 628104;

13 Exhibit 3: Affidavit of Kami Pratab;

14 Exhibit 4: Out of State Discipline (Nevada Board of Nursing);

15 Exhibit 5: Declaration of costs by Office of the Attorney General for prosecution of
16 Case No. 2012-470.

17 The Board finds that the charges and allegations in Accusation No. 2012-470 are separately and
18 severally true and correct by clear and convincing evidence.

19 11. Taking official notice of Certification of Board Costs and the Declaration of Costs by
20 the Office of the Attorney General contained in the Default Decision Investigatory Evidence
21 Packet, pursuant to the Business and Professions Code section 125.3, it is hereby determined that
22 the reasonable costs for Investigation and Enforcement in connection with the Accusation are
23 \$890.00 as of April 10, 2012.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Darcie Blithe Pendergraft, aka Darcie McCracken has subjected her following license(s) to discipline:

a. Registered Nurse License No. 628104

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Registered Nursing is authorized to revoke Respondent's license(s) based upon the following violations alleged in the Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case.

a. Violation of Business and Professions Code section 2761(a)(4) - Disciplinary action by another State Board of Nursing.

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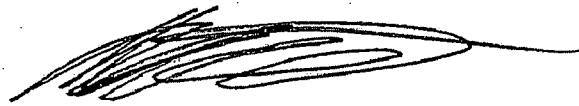
ORDER

IT IS SO ORDERED that Registered Nurse License No. 628104, heretofore issued to Respondent Darcie BlithePendergraft, aka Darcie McCracken is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 27, 2012.

It is so ORDERED June 29, 2012



Board of Registered Nursing
Department of Consumer Affairs
State of California

Attachment:

Exhibit A: Accusation No. 2012-470

Exhibit A

Accusation No. 2012-470

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
Deputy Attorney General
4 State Bar No. 203296
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5548
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 LYDIA ZANE, Senior Legal Analyst
Telephone: (415) 703-5573
9 Facsimile: (415) 703-5480

10 **BEFORE THE**
BOARD OF REGISTERED NURSING
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. **2012-470**

13 **DARCIE BLITHE PENDERGRAFT,**
14 **aka DARCIE MCCRACKEN**
2348 Willona Park
15 Eugene, OR 97408

A C C U S A T I O N

16 **Registered Nurse License No. 628104**

17 Respondent.

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20 Complainant alleges:

21 **PARTIES**

22 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
23 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
24 Department of Consumer Affairs.

25 2. On or about October 17, 2003, the Board issued Registered Nurse License Number
26 628104 to Darcie Blithe Pendergraft, aka Darcie McCracken (Respondent). The Registered
27 Nurse License was in full force and effect at all times relevant herein. It expired on November
28 30, 2007, and has not been renewed.

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“(b) Any device that bears the statement: ‘Caution: federal law restricts this device to sale by or on the order of a _____,’ ‘Rx only,’ or words of similar import . . .

“(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.”

9. Morphine is a Schedule II controlled substance as defined in Health and Safety Code section 11055, subdivision (b)(1)(L), and a dangerous drug pursuant to Code section 4022.

Morphine is a powerful opiate analgesic medication.

10. Hydromorphone is a Schedule II controlled substance as defined in Health and Safety Code section 11055(b)(1)(J), and a dangerous drug pursuant to Code section 4022. It is a semi-synthetic derivative of morphine.

COST RECOVERY

11. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Out of State Discipline)
(Bus. & Prof. Section 2761, subd. (a)(4))

12. Respondent is subject to disciplinary action under Code section 2761, subdivision (a)(4), in that on or about April 24, 2007, in a disciplinary action before the Nevada State Board of Nursing (Nevada Board), the Nevada Board issued an order revoking Respondent's Nevada Professional Nurses License Number RN51920. The circumstances are as follows:

a. On or about February 12, 2007, the Nevada Board filed an administrative complaint against Respondent alleging multiple instances wherein Respondent, while working as a Licensed Professional Nurse at Renown Regional Medical Center in Reno, Nevada, removed controlled substances from the facility's medication dispensing system, but failed to document the medications as given.

b. On or about November 13, 2006, while on duty at Renown Regional Medical Center,

1 Respondent tested positive for Morphine and Hydromorphone.

2 c. On March 15, 2007, an administrative hearing was held before the Nevada Board
3 regarding the complaint filed against Respondent. Respondent failed to appear at the hearing.

4 PRAYER


5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Board of Registered Nursing issue a decision:

7 1. Revoking or suspending Registered Nurse License Number 628104, issued to Darcie
8 Blithe Pendergraft, aka Darcie McCracken;

9 2. Ordering Darcie Blithe Pendergraft, aka Darcie McCracken, to pay the Board of
10 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
11 pursuant to Business and Professions Code section 125.3;

12 3. Taking such other and further action as deemed necessary and proper.

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14 DATED: February 22, 2012


LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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